



## CONGRESSIONAL BUDGET OFFICE PAY-AS-YOU-GO ESTIMATE

April 14, 2000

### **H.R. 1658** **Civil Asset Forfeiture Reform Act of 2000**

*As cleared by the Congress on April 11, 2000*

#### **SUMMARY**

H.R. 1658 would make many changes to federal asset forfeiture laws that would affect the processing of about 60,000 civil seizures conducted each year by the Department of Justice (DOJ) and the Department of the Treasury. (The Treasury Department makes an additional 50,000 seizures annually that would not be affected by this act.)

Because CBO expects that enacting H.R. 1658 would result in fewer civil seizures by DOJ and the Treasury Department, we estimate that governmental receipts (i.e., revenues) deposited into the Assets Forfeiture Fund and the Treasury Forfeiture Fund would decrease by about \$115 million each year beginning in fiscal year 2001. Under current law, both forfeiture funds are authorized to collect revenue and spend the balance without further appropriation. Thus, the corresponding direct spending from the two funds would also decline, but with some lag. CBO estimates that enacting this provision would decrease projected surpluses by a total of \$46 million over the fiscal years 2001 and 2002 (the difference between lower revenues and lower direct spending over those years), but that by fiscal year 2003 the changes in receipts and spending would be equal, resulting in no net budgetary impact thereafter.

H.R. 1658 also would require the Legal Services Corporation (LSC) to represent certain claimants in civil forfeiture cases and would require the federal government to reimburse the LSC for its costs. CBO estimates that this provision would increase direct spending by about \$1 million a year.

In addition, H.R. 1658 would make the federal government liable for any property damage, attorney fees, and pre-judgment and post-judgment interest payments on certain assets to prevailing parties in civil forfeiture proceedings. CBO cannot estimate either the likelihood or the magnitude of such awards because there is no basis for predicting either the outcome of possible litigation or the amount of compensation.

## **DESCRIPTION OF THE ACT'S MAJOR PROVISIONS**

H.R. 1658 would make various changes to federal laws relating to the forfeiture of civil assets. In particular, the act would:

- Establish a short statutory time limit for the federal government to notify interested parties of a seizure and to file a complaint;
- Eliminate the cost bond requirement, whereby claimants have to post bond in an amount of the lesser of \$5,000 or 10 percent of the value of the seized property (but not less than \$250) to preserve the right to contest a forfeiture;
- Permit federal courts to appoint counsel for certain indigent claimants;
- Increase the federal government's burden of proof to a preponderance of the evidence;
- Require the federal government to compensate prevailing claimants for property damage;
- Establish the federal government's liability for payment of attorney fees and pre-judgment and post-judgment interest; and
- Authorize the use of forfeited funds to pay restitution to crime victims.

## **ESTIMATED COST TO THE FEDERAL GOVERNMENT**

As shown in the following table, CBO estimates that over the 2001-2010 period, the reductions in direct spending of funds from forfeited assets would be smaller than the reductions in revenues estimated to occur as a result of enacting H.R. 1658, resulting in a net cost of \$46 million over the 10-year period. In addition, CBO estimates that additional payments to the Legal Services Corporation would be about \$1 million each year. Only the estimated changes in the current year, the budget year, and the succeeding four years are counted for pay-as-you-go purposes. The costs of this legislation fall within budget function 750 (administration of justice).

By Fiscal Year, in Millions of Dollars											
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
<b>CHANGES IN REVENUES AND DIRECT SPENDING</b>											
Changes in Forfeiture Receipts											
Estimated Revenues	0	-115	-115	-115	-115	-115	-115	-115	-115	-115	-115
Spending of Forfeiture Receipts											
Estimated Budget Authority	0	-115	-115	-115	-115	-115	-115	-115	-115	-115	-115
Estimated Outlays	0	-76	-108	-115	-115	-115	-115	-115	-115	-115	-115
Payments to the LSC											
Estimated Budget Authority	0	1	1	1	1	1	1	1	1	1	1
Estimated Outlays	0	1	1	1	1	1	1	1	1	1	1
Total Changes in Direct Spending											
Estimated Budget Authority	0	-114	-114	-114	-114	-114	-114	-114	-114	-114	-114
Estimated Outlays	0	-75	-107	-114	-114	-114	-114	-114	-114	-114	-114

## BASIS OF ESTIMATE

For purposes of this estimate, CBO assumes that H.R. 1658 will be enacted by the end of fiscal year 2000.

## Estimated Impact on Revenues and Direct Spending

Based on information from DOJ and the Treasury Department, CBO estimates that about 23,000 seizures that would otherwise occur each year under current law would be eliminated under H.R. 1658. (Such seizures primarily involve assets whose value is less than \$25,000.) The various changes to civil forfeiture laws under this act would make proving cases more difficult and more time-consuming for the federal government. In many instances, law enforcement agencies, including the state and local agencies that work on investigations jointly with the federal government and then receive a portion of the receipts generated from the forfeitures, may determine that certain cases, especially those with a value less than \$25,000, may no longer be cost-effective to pursue. While the federal government and other law enforcement agencies would take a few years following enactment of the legislation to realize the full effects of its provisions on the forfeiture and claims process, CBO expects that the total number of seizures would decrease by nearly 40 percent. CBO estimates that

such a reduction in seizures would reduce total forfeiture receipts by about \$115 million a year, beginning in fiscal year 2001.

The receipts deposited into the Assets Forfeiture Fund and the Treasury Forfeiture Fund are used to pay for all costs associated with the operation of the forfeiture program, the payment of equitable shares of proceeds to foreign, state, and local law enforcement agencies, and other expenses not directly associated with a forfeiture case, such as payment of awards to informants. In recent years about 67 percent of total asset forfeiture receipts collected in a given year are spent in the same year in which they are collected; therefore, we estimate that enacting H.R. 1658 would result in a decrease in federal spending of \$76 million in fiscal year 2001, \$108 million in 2001, and \$115 million annually in subsequent years.

In addition, H.R. 1658 would require the Legal Service Corporation to represent claimants in financial need and whose claim involves an asset that is the claimant's primary residence. Under H.R. 1658, the court must enter a judgment in favor of the LSC for the cost of legal representation. Based on historical data, CBO estimates that such judgments would increase direct spending by about \$1 million a year.

### **Additional Potential Budgetary Impacts**

In addition, this act would make the federal government liable for any property damage, attorney fees, and pre-judgment and post-judgment interest payments on certain assets to prevailing parties in civil forfeiture proceedings. However, CBO cannot estimate either the likelihood or the magnitude of such awards because there is no basis for predicting either the outcome of possible litigation or the amount of compensation. Compensation payments could come from appropriated funds or occur without further appropriation from the Judgment Fund, or from both sources.

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